

No. 5:11-CV-00285-BO

Defendants.


Case 5:11-cv-00285-BO Document 3 Filed 06/21/11 Page 1 of 2

initiated suit in federal court within the time allowed under the law. Therefore, dismissal of Plaintiff's Title VII claim against Waffle House is not appropriate at this time. However, Title VII does not provide for individual liability. *See McQuade v. Xerox Corp.*, No. 5:10-CV-149-FL, 2011 WL 344091, at *5 (E.D.N.C. Feb. 1, 2011) (“[T]he Fourth Circuit has explicitly rejected individual liability under [Title VII].”) Therefore, the undersigned recommends that Mr. Lou be dismissed from the case.

Accordingly, the court **GRANTS** Plaintiff's motion to proceed *in forma pauperis* and finds that Plaintiff's complaint survives frivolity review against Waffle House. However, it is **RECOMMENDED** that Mr. Lou be dismissed from the case.

The Clerk shall send a copy of this Order and Memorandum and Recommendation to the *pro se* Plaintiff, who shall have fourteen (14) days from the date of receipt to file written objections. Failure to file timely written objections shall bar an aggrieved party from receiving a de novo review by the District Court on an issue covered in the Memorandum and, except upon grounds of plain error, from attacking on appeal the proposed factual findings and legal conclusions not objected to, and accepted by, the District Court.

This the 21st day of June, 2011.



DAVID W. DANIEL
United States Magistrate Judge